

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

RICHARD J. KIMBALL,)
Petitioner,)
v.) 1:15-cv-00526-JAW
STATE OF MAINE,)
Respondent.)

**ORDER AFFIRMING THE RECOMMENDED
DECISION OF THE MAGISTRATE JUDGE**

On December 24, 2015, Mr. Kimball moved to stay execution of his sentence pursuant to 28 U.S.C. § 2254. *Mot. for Stay of Execution Pending Hr'g of Habeas Corpus Petition under 28 U.S.C. § 2254* (ECF No. 3). On January 12, 2016, the state of Maine opposed Mr. Kimball's motion. *Resp't's Resp. to Pet'r's Mot. for Stay of Execution* (ECF No. 9). On January 27, 2016, the United States Magistrate Judge filed with the Court his Recommended Decision, in which the Magistrate Judge recommended that the Court deny Mr. Kimball's motion for stay of execution. *Recommended Decision on Mot. for Stay of Execution* (ECF No. 11).

Although Mr. Kimball did not file an objection to the Recommended Decision, the Court—out of an excess of caution—undertook a de novo review of the Recommended Decision. After considering (1) whether substantial claims are set forth in the petition, (2) whether there is a demonstrated likelihood the petition will prevail, and (3) whether there exist extraordinary circumstances that would require

granting a stay in order to make the writ of habeas corpus effective, *Rado v. Meachum*, 699 F. Supp. 25, 27 (D. Conn. 1988), the Court agrees with the Magistrate Judge that a stay of execution is not called for on these facts as presented. The Court perceives neither a likelihood the petition will prevail on the merits nor any extraordinary circumstances requiring a stay.

In short, the Court concurs with the recommendations of the United States Magistrate Judge and determines that no further proceeding is necessary. Accordingly, it is hereby ORDERED that the Petitioner's Motion for Stay of Execution (ECF No. 3) be and hereby is DENIED.

SO ORDERED.

/s/ John A. Woodcock, Jr.
JOHN A. WOODCOCK, JR.
UNITED STATES DISTRICT JUDGE

Dated this 19th day of February, 2016